

Family Medical Leave Act (FMLA)

Policy	It is the policy of the DGS to adhere to the FMLA in accordance with Federal law, which is administered by the U.S. Department of Labor (DOL).
Definition	The FMLA entitles eligible employees up to twelve (12) weeks of unpaid, job-protected leave each calendar year for specified family and medical reasons.
Employee eligibility	Employees are “eligible” if they have worked for at least one year and for 1,250 hours over the previous 12 months with the same employer (State of California).
Reasons for taking FMLA	<p>DGS must grant unpaid leave to an eligible employee for one or more of the following reasons:</p> <ul style="list-style-type: none">• For the care of the employee’s child (birth, placement for adoptions, or foster care);• For the care of the employee’s spouse, son or daughter, or parent, who has a serious health condition; or,• For a serious health condition that makes the employee unable to perform his/her job.
Process and procedure	The FMLA process and procedures are located on Human Resources Memoranda HR 00-032 and HR 02-021. These memoranda can be accessed at http://orim.dgs.ca.gov or http://hr.dgs.ca.gov under Employee Services.

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Family Medical Leave Act (FMLA), Continued

FMLA decision tree The FMLA decision tree (chart) can be found on the following page of this section.

Resources The table below depicts the various resources available regarding FMLA.

Resource	Section
Human Resources Memoranda http://www.ohr.dgs.ca.gov/HRMemos/default.htm	HR00-32, HR00-32A, HR02-021
Law and Regulation http://www.dol.gov/dol/allcfr/Title_29/Part_825/toc.htm	Code of Federal Regulation (CFR) 29
Responsible Control Agency and Program http://www.dol.gov/dol/regs/cfr/main.htm http://www.dol.gov/esa/whd/fmla/	Department of Labor (DOL), DPA
DPA/SPB Policy Memos http://www.dpa.ca.gov/statesys/dpa/srchfpml.shtm	PML: 2002-041
Other:	
DPA DGS HR Tools	www.dpa.ca.gov http://orim.dgs.ca.gov/FMLA/Default.htm http://www.hrtools.com/Frames.asp?Category=4&Toolkit=8

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PERSONNEL OPERATIONS MANUAL
POM

Family Medical Leave Act (FMLA), Continued

FMLA Decision Tree					
Start	Has employee been employed by the State for at least 12 months and for at least 1250 hours?		No →		FMLA is not a factor in considering the absence. Consider any ADA or Workers Compensation implications.
	↓ Yes				
	Is absence due to employee's own illness, injury, or pregnancy?		No →		Is absence due to a family member's* illness, injury, childbirth, or adoption
	↓ Yes				↓ Yes No ↓
	Does the completed FMLA Medical Certification form support the need for the absence?		Yes ←		Is the absence due to the care of a newborn, or the placement for adoption or foster care within 12 months of birth or placement?
			Yes ←		No → Is the absence due to the hospitalization in excess of 3 calendar days & requires treatment by a health care provider, a result of a chronic health condition, requiring multiple treatments, or due to treatment for substance abuse?
	Yes ↓ No ↓				No ↓
	FMLA is applicable to this absence. Has the employee taken a total of 12 weeks FMLA leave within the last 12 months?		FMLA may not be applicable. Consult FMLA Administrator		FMLA may not be applicable. Consult FMLA Administrator.
			Yes →		FMLA leave obligation has been met. Consult with FMLA Administrator and/or refer to the ADA or other applicable policy or Agreement for other leave options.
			Not Positive? →		FMLA provides for 12 workweeks, but the number of days and/or hours available to the employee is dependent upon their regular schedule, and the manner in which they take their FMLA leave. Manager/Supervisor should consult with FMLA Administrator to ensure that all FMLA leave-applicable paperwork is completed and that the employee's FMLA leave is appropriately tracked and documented.
↓ No					
Employee is eligible for up to 12 weeks of absence under the FMLA. Notify FMLA Administrator.					

*For FMLA purposes family members are defined as a biological, adopted, step, legal ward, or foster son or daughter, legal or common-law spouse, or parents (either biological or in loco parentis [one who served in place of a parent]). In-laws do not count.